



U.S. Department  
of Transportation  
**Federal Transit  
Administration**

Administrator

1200 New Jersey Avenue S.E.  
Washington DC 20590

SEP - 7 2010

Gilbert Andrew Garcia, Chairman, Board of Directors  
Metropolitan Transit Authority of Harris County (METRO)  
George Greanias, Acting President and Chief Executive Officer, METRO  
1900 Main  
P.O. Box 61429  
Houston, Texas 77208-1429

Dear Messrs. Garcia and Greanias:

This past April, the Federal Transit Administration (FTA), Office of the Chief Counsel, initiated an investigation into METRO's procurement of light rail vehicles (LRVs) for use on the North and Southeast Corridor projects. Today, the Chief Counsel has transmitted his decision letter and Report of Investigation finding that METRO violated both federal procurement law and the Buy America requirements during its procurement and subsequent award of two LRV contracts to Construcciones y Auxiliar de Ferrocarriles (CAF).

The results of the investigation are both alarming and disturbing. They reveal a series of systematic efforts through which METRO and CAF sought to bypass numerous Federal rules. These rules are designed to ensure the integrity of procurements involving taxpayer funds and the requirement to use taxpayer funds in a manner to maximize the creation and sustainment of well-paying jobs here at home. The Administration will vigorously enforce these requirements, both now and in the future.

While violations of these requirements could nullify the ability of the FTA to participate in any projects tainted by such violations, in the case of Houston METRO, the Administration believes that the commuters of Houston should not be denied needed transit improvements due to the actions of prior METRO management. The Administration still believes that the North and Southeast Corridor projects have merit and we stand behind our Fiscal Year 2011 budget request of \$150 million for the two projects.

FTA's continued participation in these projects, however, will require METRO to terminate its existing contracts with CAF and re-procure LRVs in a manner that complies with FTA rules requiring full and open competition. FTA is unable to financially participate in the LRV contract awarded to CAF or any of the costs involved in that flawed procurement. A re-procurement will also be necessary in order for Houston to maintain access to \$64 million in formula grant funding that was obligated to METRO under the American Recovery and Reinvestment Act. As you know, it was METRO's intention to use that grant to replace LRVs on the existing Red Line corridor utilizing the same flawed procurement.

Assuming that METRO provides us with written affirmation of your intention to terminate the existing contracts with CAF and re-procure LRVs, and a detailed plan explaining how you intend to achieve full compliance with all Federal requirements, FTA is prepared to take a number of steps designed to keep METRO's expansion projects moving forward and keep workers on the job. FTA will be prepared to restart consideration of METRO's pending requests for Letters of No Prejudice (LONPs) through which work on the North and Southeast projects that is separate from the railcar procurement can be initiated with the potential for Federal reimbursement. At present, there is more than \$50 million in funding already appropriated that can be granted to METRO for engineering and design work on these two projects. Finally, FTA will be prepared to resume its financial analysis and our negotiations for Full Funding Grant Agreements, pending your development of a sound and viable plan for a new LRV procurement.

FTA looks forward to our continued involvement with METRO under your new management – a relationship that we hope and expect will be characterized by trust, transparency, respect, and full compliance with all pertinent Federal laws.

Sincerely,

A handwritten signature in dark ink, appearing to read 'P. Rogoff', with a stylized, sweeping flourish at the end.

Peter Rogoff